

## **REMARKS**

Claims 1-47 are pending. The Office Action dated October 7, 2003, has been carefully reviewed. Reconsideration of the grounds of rejection is respectfully requested in view of the remarks herein.

### **Summary of the Office Action**

References to paragraphs in the subject office action are referred to herein in parentheses identifying the appropriate paragraph, e.g. (para. x).

The Examiner has objected to Figure 2, and any other figure that is drawn from previously published work, on the ground that it should be labeled as "Prior Art". (para. 1). The Examiner has rejected the claims under 35 U.S.C. 103(a) as being unpatentable over Ramaswami, Winners will be Winners, Losers will be Losers: A Tale of Relative Momentum, January 13, 1999 ("Ramaswami") in view of U.S. Patent No. 6,484,151 to O'Shaughnessy ("O'Shaughnessy"). (paras. 2-3).

### **Response**

#### **1. Drawings**

The Examiner has objected to Figure 2, and any other figure that is drawn from previously published work, on the ground that it should be labeled as "Prior Art". Applicant submits that neither Figure 2, nor any of the other figures, are appropriately labeled as "Prior Art" because they do not illustrate only that which is old. In particular, while Figure 2 illustrates a conventional stock life cycle, it also illustrates aspects of the present invention (e.g., note references to "high-volume winners", "high-volume losers", "low-volume winners", and "low-volume losers"). Similarly, Figures 3 through 50 illustrate either the invention itself or a comparison of the invention with prior art

processes. Thus, because these figures do not illustrate only that which is old, Applicant does not believe a “Prior Art” legend is appropriate.

## **2. Rejection of Claims 1-47**

The Examiner has rejected the claims under 35 U.S.C. 103(a) as being unpatentable over Ramaswami in view of O’Shaughnessy. Applicant respectfully traverses the Examiner’s rejection in this regard.

Ramaswami discloses an investigation into the existence of momentum in the S&P 500 stocks over a given period to determine whether momentum in such stocks can be detected on a quarterly basis and whether there is a sector/industry persistence over the quarters. Ramaswami, p. 2. The methodology used for the investigation included ranking the S&P 500 stocks into deciles based on their previous 12-month return; labeling the lowest past performers “Losers” and labeling the highest past performers “Winners”; equally weighting the portfolios and holding them for three months; and, at the end of the quarter, re-balancing the portfolios for the subsequent quarter. Id. The investigation concluded that the “Winners” portfolio outperformed the “Losers” portfolio in 17 of the past 24 quarters. Id.

Each of the pending independent claims require not just identifying “Winner” and “Loser” stocks, but also making a determination as to the trading volume of such “Winners” or “Losers” over some time period. See, e.g., Claims 1, 13, 31, 32 (“applying a filter that passes low-volume winners and high-volume losers”); Claims 7, 11, 19, 23 (“said portfolio includes low-volume winners and high-volume losers”); Claim 33 (“associates said portfolio with said low-volume winners and high-volume losers”). Ramaswami neither discloses nor suggests determining trading volume of the “Winner” and “Loser” stocks. O’Shaughnessy is directed to using a computer to select corporate

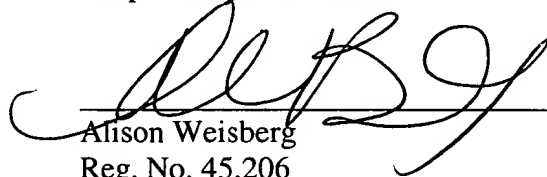
stocks for investment and does not make up for the deficiencies of Ramaswami in this regard.

Therefore, independent claims 1, 7, 11, 13, 19, 23, 31, 32 and 33 are allowable. The remaining claims depend variously from these independent claims. Because these claims depend from allowable base claims, such claims are similarly allowable.

In view of the foregoing amendments and remarks, it is submitted that all pending claims are in condition for allowance. A Notice of Allowance is therefore earnestly solicited.

The Commissioner is hereby authorized to charge any fees due in connection with this filing Deposit Account **50-0310**. A duplicate of this authorization is enclosed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alison Weisberg', is written over a horizontal line.

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